

**U.S. Department of Labor**

Office of Administrative Law Judges  
John W. McCormack Post Office and Courthouse  
Room 505  
Boston, MA 02109

(617) 223-9355  
(617) 223-4254 (FAX)



**Issue date: 08May2001**

**CASE NO. : 2000-DBA-0001**

IN THE MATTER OF:

Disputes concerning the payment  
of prevailing wage rates and  
proposed debarment for labor violations by:

**B.C.E. SPECIALTIES, INC.,  
a corporation, subcontractor,**

and

**BETH CUNNINGHAM,  
an individual,  
Respondents**

With respect to laborers and  
mechanics employed by the  
subcontractor on GSA Contract  
No. GSO5P96GB60016, Chicago, IL  
and with respect to the ineligibility  
provisions of 29 C.F.R. § 5.12.

**DECISION AND ORDER APPROVING CONSENT FINDINGS**

These consent findings are entered into by and between the Administrator, Wage and Hour Division, U.S. Department of Labor and B.C.E. Specialties, Inc., a corporation and Beth Cunningham, an individual (hereinafter "Respondents"), by and through their respective representatives, and pursuant to 29 C.F.R. § 6.32, agree to the following Consent Findings:

1. At all times relevant to this proceeding, B.C.E. Specialties, Inc. was the subcontractor on U.S. General Services Administration Contract No. GSO5P96GB60016, for work located at the Everett McKinley Dirksen U.S. Courthouse, 219 S. Dearborn Street, Chicago, Illinois (the "Project"). The Project was subject to the prevailing wage and labor standards provisions of the Reorganization Plan No. 14 of 1950 (64 Stat. § 1267), the

Davis-Bacon Act (40 U.S.C. § 276a **et seq.**), and the applicable regulations issued thereunder at 29 C.F.R. §§ 5.11(b) and 5.12(a)(1). The contract contained the labor standards provisions as required by the aforementioned regulations and the applicable wage decision (No. IL 96-0009).

2. Following an investigation into the terms and conditions of employment on the subject project, the Wage and Hour Division determined that Respondents failed to properly classify eight (8) employees and pay them the required prevailing wage rates. Respondents disputed their liability for payment of the back wages due and requested an administrative hearing.

3. (a) The parties have now agreed to settle this dispute by Respondents accepting their liability for Davis-Bacon Act back wages in the amount of \$23,946.14. Respondents deny the allegations contained in the charging letter, but for purposes of settling this matter agree to withdraw their letter of exception and request for hearing and agree to pay this amount.

(b) The Administrator agrees to withdraw her allegation that Respondents disregarded their obligations to employees and agrees to withdraw her prayer for debarment pursuant to Section 3(a) of the Davis-Bacon Act (40 U.S.C. § 276(a)-2(a)).

4. The Administrator and Respondents further agree that (a) the Court shall enter an **ORDER** directing Respondents to release the amount of \$23,946.14 previously paid to the Wage and Hour Division, U.S. Department of Labor, and (b) the Court shall order the Wage and Hour Division, U.S. Department of Labor, to disburse to employees the sum of \$23,946.14 which was previously paid to it by the Respondents to satisfy the back wage liability herein.

5. The Wage and Hour Division, U.S. Department of Labor shall distribute any amounts paid hereunder to the employees, or to their legal representatives, in the amounts set forth in Exhibit A which is attached hereto and made a part hereof, and any such amounts not distributed within one year of the date of entry of the **DECISION AND ORDER** herein because of inability to locate the proper individuals shall be deposited with the Treasurer of the United States as miscellaneous receipts.

6. Respondents hereby agree to comply with all applicable labor standards requirements in the performance of any future

contracts, including the provisions of the Davis-Bacon Act and the regulations at 29 C.F.R. §§ 5.11(b) and 5.12(a)(1).

7. It is further agreed and stipulated that any Order consistent with and based upon these Consent Findings shall have the same force and effect as an Order made after full hearing and that the entire record in this case shall consist solely of these Consent Findings together with the Order of Reference and attachments thereto; that all further procedural steps before the Administrative Law Judge, Administrator, and the Administrative Review Board are hereby waived; and that any right to challenge or contest the validity of any Order entered in accordance with these Consent Findings is hereby waived.

8. Respondents and the Administrator, Wage and Hour Division, U.S. Department of Labor stipulate and agree that each party shall bear her/its own costs and expenses incurred in any stage of these proceedings, to date.

This Administrative Law Judge, having reviewed the Consent Findings, concludes that this settlement is in the best interests of all parties and it is therefore **ORDERED** that the settlement agreement shall be, and the same hereby is **APPROVED** pursuant to the provisions of 29 C.F.R. § 6.32.

A  
**DAVID W. DI NARDI**  
Administrative Law Judge

Boston, Massachusetts  
DWD:km